

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

UNITED STATES OF AMERICA	§	
	§	
V.	§	CASE NO. 7:08-CV-207
	§	
1.71 ACRES OF LAND, MORE OR LESS,	§	
ET AL.	§	

DEFENDANT’S UNOPPOSED MOTION FOR CONTINUANCE

TO ALL PARTIES AND COUNSEL OF RECORD:

Defendant, Maria Cecilia Benavides, files this Unopposed Motion for Continuance and would show the Court as follows:

1. This case is currently scheduled for trial setting on Tuesday, December 8, 2020. Per this Court’s scheduling order, the deadline for landowners to designate experts was July 17, 2020 and the deadline for defensive experts is August 17, 2020. Despite diligent efforts, Defendant to date has been unable to secure an appraisal expert, and multiple appraisers have informed her that they are not taking border fence cases as a general rule. Numerous factors may have contributed to the difficulty of securing an appraiser in this case, including but not limited to the retrospective date of taking, which presents an obstacle to verifying relevant sales data, and the continuing impact of the COVID-19 pandemic on business models and travel.

2. Expert testimony has a special significance in eminent domain cases, where the sole issue is usually the value of the condemned property. *United States v. 14.38 Acres of Land*, 80 F.3d 1074, 1077 (5th Cir. 1996). In light of the critical role of appraisers in ensuring that both sides are heard on the issue of just compensation, Defendant is seeking

a continuance to secure a qualified expert. Defendant has conferred with Plaintiff and confirmed that Plaintiff is unopposed to a continuance of this trial setting. For these reasons, Defendant requests that the Court enter an order resetting this action from its December 8, 2020 trial setting to a date at least six (6) months thereafter.

3. No experts have been yet been designated in this case, and discovery is ongoing. This is the first request for a continuance. This Motion is not sought for delay, but only so that justice may be done.

Wherefore, Defendant, Maria Cecilia Benavides, respectfully requests this Honorable Court for an Order continuing this case from its current setting to a date at least six (6) months thereafter and suspending all current case deadlines until entry of a new scheduling order.

Respectfully submitted,

McFARLAND PLLC

/s/ Charles B. McFarland

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CERTIFICATE OF CONFERENCE

I certify that on the 10th day of August, 2020, I conferred with Assistant United States Attorney Manuel Muniz Lorenzi, counsel for Plaintiff in this case, and he stated he was unopposed to the relief requested in this motion.

/s/ Charles B. McFarland
Charles B. McFarland

CERTIFICATE OF SERVICE

I certify that on the 14th day of August, 2020, a true and correct copy of the foregoing was forwarded by electronic service to all parties receiving ECF notices in this case.

/s/ Charles B. McFarland
Charles B. McFarland